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 17 **UNITED STATES DISTRICT COURT**
 18 **DISTRICT OF NEVADA**

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Lily Choyce, *individually and on behalf of those similarly situated*,
 Plaintiff,
 v.
 Bay Area Credit Service LLC,
 Defendant.

Case No: 2:16-cv-2596

Class Action

Complaint For Damages Under the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq.

Jury Trial Demanded

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1 2. Plaintiff makes these allegations on information and belief, with the exception
2 of those allegations that pertain to Plaintiff, which Plaintiff alleges on
3 personal knowledge.

4 3. While many violations are described below with specificity, this Complaint
5 alleges violations of the statutes cited in their entirety.

6 4. Unless otherwise stated, all the conduct engaged in by Defendant took place
7 in Nevada.

8 5. Any violations by Defendant were knowing, willful, and intentional, and
9 Defendant did not maintain procedures reasonably adapted to avoid any such
10 specific violation.

11 **JURISDICTION AND VENUE**

12 6. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 (federal
13 question jurisdiction).

14 7. This action arises out of Defendant's violations of the Fair Debt Collection
15 Practices Act, 15 U.S.C. §§ 1692 et seq. (the "FDCPA" or the "Act").

16 8. Defendant is subject to personal jurisdiction in Nevada, as it conducts
17 business here, and specifically reached into Nevada to attempt to collect debt
18 from Plaintiff in Nevada.

19 9. Venue is proper pursuant to 28 U.S.C. § 1333 because all of the events giving
20 rise to this lawsuit occurred in Clark County, Nevada.

21 **PARTIES**

22 10. Plaintiff is a natural person who resides in Clark County, Nevada.

23 11. Plaintiff is alleged to owe a debt, and is a consumer as that term is defined by
24 15 U.S.C. § 1692a(3).

25 12. Defendant is a limited liability company organized in the State of California
26 and doing business in the State of Nevada.

27 13. Defendant uses an instrumentality of interstate commerce or the mails in a
28 business the principal purpose of which is the collection of debts, or who

1 regularly collects or attempts to collect, directly or indirectly, debts owed or
2 due or asserted to be owed or due another and is therefore a debt collector as
3 defined by 15 U.S.C. § 1692a(6).

4 **FACTUAL ALLEGATIONS**

5 14. On or about May 17, 2015, Plaintiff's daughter required emergency medical
6 care and American Medical Response, Inc. ("AMR"), an ambulance provider,
7 took her daughter to Summerlin Hospital.

8 15. Plaintiff's insurance provider paid AMR for some of the cost for the
9 ambulance care.

10 16. On or about October 2, 2015, Envision Healthcare began to attempt to collect
11 from Plaintiff the portion of the debt not covered by Plaintiff's insurance—
12 \$1,355.54 (the "Debt").

13 17. The validity of the alleged Debt is immaterial to this action, and Plaintiff
14 currently takes no position as to its validity.

15 18. Thereafter, the Debt was transferred to a collections company for the purpose
16 of collecting debt from Plaintiff.

17 19. At no time did AMR, Envision or the collections company ever claim that
18 Plaintiff was obligated to pay any interest.

19 20. Thereafter, the Debt was transferred to Defendant for the purpose of
20 collecting debt from Plaintiff.

21 21. Defendant began illegally attempting to collect interest on the Debt, in
22 addition to the Debt, by sending Plaintiff collection letters on, including but
23 not limited to February 22, 2016, April 27, 2016, June 29, 2016 and August 5,
24 2016 (the "Collection Letters").

25 22. The Collection Letters are mass-mailed form letters, in generic form.

26 23. On February 22, 2016, Defendant sent Plaintiff a letter for the purpose of
27 collecting debt, wrongly stating that Plaintiff owed \$31.31 in interest for the
28 Debt.

1 24. On April 27, 2016, Defendant sent Plaintiff a letter for the purpose of
2 collecting debt, wrongly stating that Plaintiff owed \$38.55 in interest for the
3 Debt.

4 25. On June 29, 2016, Defendant sent Plaintiff a letter for the purpose of
5 collecting debt, wrongly stating that Plaintiff owed \$45.46 in interest for the
6 Debt.

7 26. On August 5, 2016, Defendant sent Plaintiff a letter for the purpose of
8 collecting debt, wrongly stating that Plaintiff owed \$49.69 in interest for the
9 Debt.

10 27. Plaintiff did not owe any interest on the Debt and AMR, the original creditor
11 of the Debt, has confirmed that the Debt was not subject to any interest.

12 28. The Debt was incurred primarily for personal, family or household purposes
13 and are therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

14 29. Under the FDCPA, Defendant was not allowed to attempt to collect any
15 interest since no interest was expressly authorized by the agreement creating
16 the Debt.

17 30. Under the FDCPA, a “debt collector may not use unfair or unconscionable
18 means to collect or attempt to collect any debt.” 15 U.S.C. § 1692f. The Act
19 prohibits “the collection of any amount (including any interest, fee, charge, or
20 expense incidental to the principal obligation) unless such amount is
21 expressly authorized by the agreement creating the debt or permitted by law.”
22 15 U.S.C. § 1692f(1).

23 **CLASS ACTION ALLEGATIONS**

24 31. Plaintiff brings this action on behalf of himself and on behalf of all others
25 similarly situated.

26 32. The proposed Class that Plaintiff seeks to represent are defined as follows:

27 All consumers in the United States of America who were sent a
28 letter by or on behalf of Defendant, within one year prior to the

1 filing of this action, in an attempt to collect debt on behalf of
2 AMR, or debt which was originally owed to AMR, in which
3 Defendant attempted to collect interest and which was not
returned as undeliverable.

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5 33. Defendant and its employees or agents are excluded from the Class. Plaintiff
6 does not know the number of members in the Class, but believes the Class
7 members number in the hundreds, if not more. This matter should therefore be
certified as a Class action to assist in the expeditious litigation of this matter.

8 34. Plaintiff and members of the Class were harmed by the acts of Defendant
9 when Defendant, either directly or through its agents, engaged in illegal and
10 deceptive practices, when it collected or attempted to collect amounts that it
11 was not entitled to under the agreement creating the debt, in violation of the
12 FDCPA, and Plaintiff and the Class' members were damaged thereby.

13 35. This suit seeks only recovery of actual and statutory damages on behalf of the
14 Class, and it expressly is not intended to request any recovery for personal
15 injury and claims related thereto. Plaintiff reserves the right to expand the
16 Class definition to seek recovery on behalf of additional persons as warranted
17 as facts are learned in further investigation and discovery.

18 36. The joinder of the Class members is impractical and the disposition of their
19 claims in the Class action will provide substantial benefits both to the parties
20 and to the court. The Class can be identified through Defendant's records or
21 Defendant's agents' records.

22 37. There is a well-defined community of interest in the questions of law and fact
23 involved affecting the parties to be represented. The questions of law and fact
24 to the Class predominate over questions which may affect individual members
25 of the Class, including the following:

26 a. Whether Defendant's letters sent to collect debt on behalf of AMR were
27 communications to collect debt under the FDCPA;

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- b. Whether, within the class period, Defendant or its agents communicated with consumers in an attempt to collect interest that was not authorized by the agreement creating the debt; and
- c. Whether Plaintiff and the members of the Class were damaged thereby, and the extent of damages for such violations.

38. As a person who suffered an unauthorized consumer credit report inquiry by Defendant on his credit report, Plaintiff is asserting claims that are typical of the Class. Plaintiff will fairly and adequately represent and protect the interest of the Class in that Plaintiff has no interests antagonistic to any member of the Class.

39. Plaintiff and the members of the Class have all suffered irreparable harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class action, the Class will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendant will likely continue such illegal conduct. Because of the size of the individual claims, few, if any, members of the Class could afford to seek legal redress for the wrongs complained of herein.

40. Plaintiff has retained counsel experienced in handling class action claims and claims involving violations of the FDCPA.

41. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendant to comply with federal law. The interest of the members of the Class in individually controlling the prosecution of separate claims against Defendant is small because the maximum statutory damages in an individual action for FDCPA violations are minimal. Management of these claims is likely to present significantly fewer difficulties than those presented in many class claims.

1 42. Defendant has acted on grounds generally applicable to the Class, thereby
2 making appropriate declaratory relief with respect to the Class as a whole.

3 **COUNT ONE**

4 **FAIR DEBT COLLECTION PRACTICES ACT**

5 **15 U.S.C. §§ 1692 ET SEQ.**

6 43. Plaintiff repeats, re-alleges, and incorporates by reference, all other
7 paragraphs of the Complaint as though fully stated herein.

8 44. Defendant's conduct violated 15 U.S.C. § 1692e(2) in that Defendant falsely
9 represented the amount and the legal status of the Debt in the Collection
10 Letter.

11 45. Defendant's conduct violated 15 U.S.C. § 1692e(5) in that Defendant
12 threatened to take action against the Plaintiff which could not be legally taken
13 in connection with the Collection Letter.

14 46. Defendant's conduct violated 15 U.S.C. § 1692e(10) in that Defendant
15 employed various false representations and deceptive means in connection
16 with the Collection Letter in an attempt to collect a debt.

17 47. Defendant's conduct violated 15 U.S.C. § 1692f in that Defendant used unfair
18 and unconscionable means to collect a debt by sending the Collection Letter
19 to Plaintiff.

20 48. Defendant's conduct violated 15 U.S.C. § 1692f(l) in that Defendant
21 attempted to collect an amount not expressly authorized by the agreement
22 creating the debt or permitted by law.

23 49. The foregoing acts and omissions of Defendant constitute numerous and
24 multiple violations of the FDCPA, including every one of the above cited
25 provisions.

26 50. Plaintiff is entitled to damages as a result of Defendant's violations.

27 51. Plaintiff has been required to retain the undersigned as counsel to protect her
28 legal rights in connection with the Collection Letter and to prosecute this

1 cause of action, and is therefore entitled to actual damages under 15 U.S.C. §
2 1692k(a)(1), statutory damages in an amount up to \$1,000.00 pursuant to 15
3 U.S.C. § 1692k(a)(2)(A) and reasonable attorney's fees and costs pursuant to
4 15 U.S.C. § 1692k(a)(3) from Defendant.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and
7 Plaintiff be awarded damages from Defendant, as follows:

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- 9 • An order certifying the Class and appointing Plaintiff as Representative
of the Class;
- 10 • An order certifying the undersigned counsel as Class Counsel;
- 11 • A declaratory judgment that Defendant's actions as discussed herein is
unlawful;
- 12 • An order requiring Defendant, at its own cost, to notify all members of
the Class of the unlawful acts discussed herein;
- 13 • Injunctive relief stopping Defendant from further deceptive practices;
- 14 • An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- 15 • An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §
1692k(a)(2)(A);
- 16 • An award of costs of litigation and reasonable attorney's fees, pursuant
to 15 U.S.C. § 1692k(a)(3); and
- 17 • Any other relief that this Court deems just and proper.

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JURY DEMAND

52. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

DATED this 8th day of November 2016.

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ Michael Kind
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